

place during any tax year are required to pay only one special tax.

(26 U.S.C. 5733)

#### PAYMENT OF SPECIAL TAX

##### § 46.101 Special tax returns.

(a) *Preparation of TTB Form 5630.5t.* Every manufacturer of tobacco products, manufacturer of cigarette papers and tubes, and export warehouse proprietor is required to pay special (occupational) tax and file a return on TTB Form 5630.5t, "Special Tax Registration and Return—Tobacco." TTB Form 5630.5t must be completed in accordance with the instructions on the form, and all of the information called for on the form must be provided, including the following:

- (1) Name of the taxpayer.
- (2) Trade name(s) (if any) of the business(es) subject to special (occupational) tax.
- (3) Employer identification number (see § 46.102).
- (4) Exact location of the place of business, by name and number of building or street, or if these do not exist, by some specific description in addition to the post office address. In the case of one return for two or more locations, the address to be shown must be the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer).
- (5) Class(es) of special tax to which the taxpayer is subject.
- (6) Ownership and control information. This consists of the name, position, and residence address of every owner of the business and of every person having power to control its management and policies with respect to the activity subject to special tax. "Owner of the business" includes every partner, if the taxpayer is a partnership, and every person owning 10 percent or more of its stock, if the taxpayer is a corporation. However, the ownership and control information required by this paragraph need not be stated if the same information has been previously provided to TTB in connection with a permit application and that previously provided information is still current.

(b) *Multiple locations and/or classes of tax.* A taxpayer subject to special tax

for the same period at more than one location or for more than one class of tax must—

(1) File one special tax return, TTB Form 5630.5t, with payment of tax, to cover all such locations and classes of tax; and

(2) Prepare, in duplicate, a list identified with the taxpayer's name, address (as shown on TTB Form 5630.5t), employer identification number, and period covered by the return. The list must show, by State, the name, address, and tax class of each location for which special tax is being paid. The original of the list must be filed with TTB as an attachment to TTB Form 5630.5t, and the copy must be retained at the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer) for a period of three years from the date of the return.

(c) *Signing of TTB Form 5630.5t—(1) By principal.* The return of an individual proprietor must be signed by the individual. The return of a partnership must be signed by a general partner. The return of a corporation must be signed by an officer. In each case, the person signing the return must designate his or her capacity as "individual owner," "member of firm," or, in the case of a corporation, the officer's title.

(2) *By fiduciary.* A receiver, trustee, assignee, executor, administrator, or other legal representative who continues the business of a bankrupt, insolvent, deceased, or otherwise incapacitated person must indicate the capacity in which the fiduciary acts.

(3) *By agent or attorney in fact.* If a return is signed by an agent or attorney in fact, the signature must be preceded by the name of the principal and followed by the title of the agent or attorney in fact. A return signed by a person as agent will not be accepted unless there is filed, with the TTB office with which the return is required to be filed, a power of attorney authorizing the agent to perform the act.

(d) *Perjury statement.* Each TTB Form 5630.5t must contain, or be verified by, a written declaration that the return

## § 46.102

has been executed under the penalties of perjury.

(26 U.S.C. 5732, 6061, 6065, 6151, 7011)

(Approved by the Office of Management and Budget under control number 1513-0112)

### § 46.102 Employer identification number.

(a) *Requirement.* The employer identification number (as defined in 26 CFR 301.7701-12) of the taxpayer who has been assigned such a number must be shown on each special tax return, including each amended return, filed under this subpart. Failure of the taxpayer to include the employer identification number may result in the imposition of the penalty specified in § 70.113 of this chapter.

(b) *Application for employer identification number.* Each taxpayer who files a special tax return and who has not already been assigned an employer identification number must file Internal Revenue Service (IRS) Form SS-4 to apply for one. The taxpayer must apply for and be assigned only one employer identification number, regardless of the number of places of business for which the taxpayer is required to file a special tax return. The taxpayer must apply for the employer identification number no later than 7 days after the filing of the taxpayer's first special (occupational) tax return. IRS Form SS-4 may be obtained from the director of an IRS service center, from any IRS district director, or from <http://www.irs.gov/>.

(26 U.S.C. 6109)

### § 46.103 Time for filing return and paying tax.

The return, along with remittance of special tax, must be filed on or before the date of commencing business as a manufacturer of tobacco products, manufacturer of cigarette papers or tubes, or export warehouse proprietor, and thereafter every year on or before July 1. If the return and applicable tax are received in the mail and the U.S. postmark on the cover shows that it was deposited in the mail in the United States within the time prescribed for filing in an envelope or other appropriate wrapper which was properly addressed with postage prepaid, the re-

## 27 CFR Ch. I (4-1-11 Edition)

turn will be considered as timely filed. If the postmark is not legible, the sender has the burden of proving the date when the postmark was made. When registered mail is used, the date of registration will be accepted as the postmark date. When certified mail is used, the date of the postmark on the sender's receipt of certified mail is treated as the postmark date.

(26 U.S.C. 5732, 6011, 6071)

### § 46.104 Method of payment.

Payment of special tax must be made in cash, or by check or money order payable to Alcohol and Tobacco Tax and Trade Bureau. If a check or money order so tendered is not honored when presented for payment, the person who tendered the check or money order will remain liable for the payment of the special tax, and for all penalties and additions, to the same extent as if the check or money order had not been tendered. In addition, unless the person who tendered the check or money order can show that the check or money order was issued in good faith, and with reasonable cause to believe that it would be duly paid, there must be paid as penalty an amount equal to 1 percent of the amount of the check or money order, except that if the amount of the check or money order is less than \$500, the penalty will be \$5, or the amount of the check or money order, whichever is less.

(26 U.S.C. 6311, 6657)

### § 46.105 Receipt for taxes.

Subject to § 46.106, the appropriate TTB officer will issue a receipt to a taxpayer if cash is received as a remittance in payment of special tax (including penalties and interest, if any), or for any type of remittance received if the taxpayer requests a receipt.

### § 46.106 Receipt in lieu of stamp prohibited.

No receipt will be issued in lieu of issuance of a special tax stamp under § 46.116. A receipt may be given only pending the issuance of a stamp, or where the tax liability relates to a prior tax year.

(26 U.S.C. 6314)